

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

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In re:

Chapter 11

286 RIDER AVE ACQUISITION LLC,

Case No. 21-11298-lgb

Debtors

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**DECLARATION OF BEN HARLEV IN SUPPORT OF BE-AVIV 286 RIDER
LLC'S RESPONSE TO MOTION BY 286 RIDER AVE DEVELOPMENT LLC
TO (I) DISMISS BANKRUPTCY CASE PURSUANT TO 11 U.S.C. §§ 303, 305,
AND 1112, AND (II) FOR TURNOVER OF CERTAIN MEMBERSHIP
INTERESTS UNDER 11 U.S.C. § 543, AND
JOINDER BY RESPONDENT TO DEBTOR'S RESPONSE TO THE MOTION**

Ben Harlev, authorized representative of Be-Aviv 286 Rider LLC ("**Lender**"),
affirms the following to be true:

1. Attached hereto as **Exhibit A** is a true and correct copy of Resolution to File Chapter 11 Reorganization by the Manager of 286 Rider Ave Acquisition, dated July 15, 2021.
2. Attached hereto as **Exhibit B** is a true and correct copy of the Membership Interest Pledge Agreement, dated September 19, 2019, between 286 Rider Ave Development LLC and Be-Aviv 286 Rider LLC.
3. Attached hereto as **Exhibit C** is a true and correct copy of the Promissory Note, dated September 19, 2019, in the amount of \$8,000,000.00 executed by Toby Moskovits on behalf of 286 Rider Ave Acquisition LLC in favor of Be-Aviv 286 Rider LLC.

4. Attached hereto as **Exhibit D** is a true and correct copy of the First Amendment to Promissory Note, dated September 18, 2020, in the amount of \$8,000,000.00 executed by Toby Moskovits on behalf of 286 Rider Ave Acquisition LLC in favor of Be-Aviv 286 Rider LLC and consented to by Toby Moskovits and Yechial Michael Lichtenstein as Guarantors.

5. Attached hereto as **Exhibit E** is a true and correct copy of the Mortgage and Security Agreement, dated September 19, 2019, executed by Toby Moskovits on behalf of 286 Rider Ave Acquisition LLC.

6. Attached hereto as **Exhibit F** is a true and correct copy of the Document Re-Execution Agreement, dated September 19, 2019, executed by Toby Moskovits on behalf of 286 Rider Ave Acquisition LLC, Toby Moskovits on behalf of 286 Rider Ave Development LLC, and by Toby Moskovits and Yechial Michael Lichtenstein.

7. Attached hereto as **Exhibit G** is a true and correct copy of the Certificate for Limited Liability Company Interests in 286 Rider Ave Acquisition LLC, dated September 17, 2019, and the Assignment of Interest, dated April 27, 2021.

8. Attached hereto as **Exhibit H** is a true and correct copy of the Written Consent in Lieu of Meeting, dated as of September 19, 2019, executed by Toby Moskovits, Yechial Michael Lichtenstein, 286 Rider Ave Development LLC, 286 Rider Ave Holdings LLC, and Heritage 286 Rider Ave LLC.

9. Attached hereto as **Exhibit I** is a true and correct copy of the Extension Notice, dated January 3, 2021, sent by Toby Moskovits on behalf of 286 Rider Ave Acquisition LLC to Be-Aviv 286 Rider LLC.

10. Attached hereto as **Exhibit J** is a true and correct copy of the March 2, 2021 letter from Be-Aviv 286 Rider LLC to Toby Moskovits on behalf of 286 Rider Ave Acquisition LLC and Yechial Michael Lichtenstein.

11. Attached hereto as **Exhibit K** is a true and correct copy of a letter from Y. David Scharf to 286 Rider Acquisition LLC and 286 Rider Ave Development LLC, dated April 27, 2021, providing notice of transfer of the equity interest.

12. Attached hereto as **Exhibit L** is a true and correct copy of the Assignment and Assumption Agreement between Be-Aviv 286 Rider LLC and 286 Rider Ave Lender LLC, dated June 14, 2021.

13. Attached hereto as **Exhibit M** is a true and correct copy of a letter from Y. David Scharf to 286 Rider Acquisition LLC and 286 Rider Ave Development LLC, dated July 14, 2021, providing notice of transfer of the equity interest.


14. Attached hereto as **Exhibit N** is a true and correct copy of an Affidavit of Confession of Judgment By 286 Rider Ave Acquisition LLC, sworn to on September 19, 2019.

15. Attached hereto as **Exhibit O** is a true and correct copy of the Judgment by Confession in the amount of \$1.2 million that was entered against 286 Rider Ave Acquisition LLC in the Supreme Court State of New York on December 17, 2020.

16. Attached hereto as **Exhibit P** is a true and correct copy of the Declaration pursuant to Local Rule 1007-2 dated July 15, 2021 and signed by Lee E. Buchwald as the Manager.

17. Attached hereto as **Exhibit Q** are true and correct copies of the Articles of Organization of 286 Rider Ave Acquisition LLC and the Amended and Restated Limited Liability Company Operating Agreement of 286 Rider Ave Acquisition LLC.

Dated: New York, New York
August 19, 2021



Ben Harlev